RECENT IMPORTANT DECISIONS.

BILLS AND NOTES.—CHECK PAYABLE TO FICTITIOUS PERSON.—The plaintiff insurance company, having a deposit in the defendant bank, drew its check payable to a purported beneficiary, and forwarded the same to its agent for delivery. The application for the policy and proofs of death had all been forged at the instance of the plaintiff's agent, and there were no such persons ever in existence as the nominal policy holder and beneficiary. The agent forged the indorsement of the fictitious payee and negotiated the instrument. The defendant bank honored the same in the due course of business, and charged the plaintiff's account. The plaintiff brought suit to recover the amount thus paid out. *Held,* the plaintiff could not recover. *Equitable Life Insurance Society* v. *National Bank of Commerce* (Mo. App. 1916) 181 S. W. 1176.

The decision is important because of its direct conflict with that of *Shipman* v. *Bank,* 126 N. Y. 318, the leading case involving the situation. Both cases revolve around this provision of the Negotiable Instruments Law: "The instrument is payable to bearer: * * * third, when it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable." The different results that are reached from applying the same law to similar facts, is explained by the differing views which obtained with reference to a controlling proposition of agency. If the knowledge of the agent under these circumstances, be imputed to the principal, the instrument was payable to bearer, and the defendant was protected; if not, the reverse is the case. The court in the instant case inclined to the former view. It cited, however, no cases of similar nature in support of its position, nor was the New York case even referred to. Its sole authority was the case of *Garretzen* v. *Duenckel,* 50 Mo. 104, which considers what acts may be treated as within the course of the agent's employment and therefore imputable to the principal. An examination of that case would seem to show that its doctrine even as applied to the facts of the instant case would result in a conclusion more in harmony with the New York case. If an agent is effecting some fraudulent design of his own, it might seem reasonable to make an exception to the general doctrine of imputation of an agent's knowledge to the principal, for such conduct raises a conclusive presumption that the agent would not communicate the knowledge associated with his fraudulent behavior. Such at least is the conclusion of the New York courts and those that were cited as sharing the same view. *Cave* v. *Cave* L. R. 15 Ch. Div. 643; *Weisser* v. *Denison,* 10 N. Y. 69; *Welsh* v. *German-American Bank,* 73 N. Y. 424; *Frank* v. *The Chemical National Bank,* 84 N. Y. 209; *First National Bank* v. *Farmers Bank,* 56 Neb. 155.

CARRIERS.—LIABILITY OF CARRIER AS WAREHOUSEMAN.—The plaintiff made an inter-state shipment of furniture under a limited liability contract which provided that if the goods were not removed by the consignee within forty-

eight hours after arrival at the destination, the liability of the carrier should be only that of a warehouseman. The goods were not removed from defendant's warehouse within the stipulated time and were destroyed through defendant's negligence. Plaintiff contended that when the liability of the carrier became that of a warehouseman, the limited liability contract had spent its force, and that the defendant should be liable for the full market value of the goods. But the court *held,* that the contract of transportation was in force until the goods are delivered to the consignee, and allowed recovery only of the contract value of the goods. *Cleveland, Cinci., Chi. & St. Louis Ry.* v. *Dettlebach,* (1916), 36 Sup. Ct. 177.

It is now well settled that if the loss occurs in the course of transportation, the limitation of liability agreed upon with the initial carrier for the purpose of securing a lower rate of freight is binding upon the shipper. *Adams Express Co.* v. *Croninger,* 226 U. S. 491; *Kansas Cy. So. Ry.* v. *Carl,* 227 U. S. 639; *Mo. K. & T. Ry.* v. *Harriman,* 227 U. S. 658. And in view of the fact that the HEPBURN ACT has enlarged the definition of the term "transportation" to include not only all "instruments of shipment or carriage." but also "all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported," a loss of goods upon which a carrier was performing warehousing services would be governed by the contract of carriage. In the *Pierce Arrow* case, 226 U. S. 278, recovery under a limited liability contract was allowed only to the amount of $50, although automobiles of the value of $20,000 were lost through the negligence of the carrier; and under the authority of the present case, the same rule would be applied if the loss occurred while the goods were in the possession of the carrier as warehouseman. We may soon expect cases under the CUMMINS ACT of March 4, 1915, which seems to change the above rule by making the carrier liable for the full value of the goods lost, in spite of the established tariffs and limitations in bills of lading, where the carrier is aware of the true value and character of the goods tendered for shipment. See 13 MICH. L. REV. 590.

CARRIERS.—LOSS THROUGH DELAY COVERED BY THE CARMACK AMENDMENT. —Plaintiff shipped a carload of strawberries to New York City. There was a delay in transportation on the lines of a connecting carrier, and the goods arrived at the destination some hours later than the customary time of arrival. Plaintiff sued the initial carrier for failure to transport and deliver with reasonable dispatch. *Held,* that damages for the loss of the market because of unreasonable delay in transportation occurring anywhere en route are comprehended by the provisions of the CARMACK AMENDMENT, which makes the initial carrier of an inter-state shipment liable to the holder of a bill of lading for "any loss, damage or injury to such property" caused by it or by any carrier in the chain of transportation. *N. Y., Phila. & Norfolk Ry. Co.* v. *Peninsula Produce Exchange of Maryland,* (1916), 36 Sup. Ct. 230.

It has been contended that the words "any loss, damage or injury to such property" used in the CARMACK AMENDMENT, made the initial carrier liable only where there has been some physical injury to the property itself; and